

FILED  
JUN 24 1999  
CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

F&G Scrolling Mouse LLC

Plaintiff(s),

v.

Microsoft Inc et al

Defendant(s).

NO. C99-995WD

ORDER REGARDING  
DISCOVERY AND  
DEPOSITIONS

IT IS ORDERED that:

1. DISCOVERY. All discovery matters are to be resolved by agreement if possible. If a ruling is needed as to any discovery question, and counsel wish to avoid the time and expense of a written motion, they may obtain an expedited ruling through a telephone conference call to the court at (206) 553-0103.

2. DEPOSITIONS. Depositions will be conducted in compliance with the following rules:

(a) Examination. If there are multiple parties, each side should ordinarily designate one attorney to conduct the main examination of the deponent, and any questioning by other counsel on that side should be limited to matters not previously covered.

1 (b) Objections. The only objections that should be  
2 raised at the deposition are those involving a privilege against  
3 disclosure, or some matter that may be remedied if presented at  
4 the time (such as the form of the question or the responsiveness  
5 of the answer), or that the question seeks information beyond the  
6 scope of discovery. Objections on other grounds are unnecessary  
7 and should generally be avoided. All objections should be concise  
8 and must not suggest answers to, or otherwise coach, the deponent.  
9 Argumentative interruptions will not be permitted.

10 (c) Directions Not to Answer. Directions to the depo-  
11 nent not to answer are improper, except on the ground of privilege  
12 or to enable a party or deponent to present a motion to the court  
13 or special master for termination of the deposition on the ground  
14 that it is being conducted in bad faith or in such a manner as  
15 unreasonably to annoy, embarrass or oppress the party or the  
16 deponent, or for appropriate limitations upon the scope of the  
17 deposition (e.g., on the ground that the line of inquiry is not  
18 relevant nor reasonably calculated to lead to the discovery of  
19 admissible evidence). When a privilege is claimed, the witness  
20 should nevertheless answer questions relevant to the existence,  
21 extent or waiver of the privilege, such as the date of the com-  
22 munication, who made the statement in question, to whom and in  
23 whose presence the statement was made, other persons to whom the  
24 statement was made, other persons to whom the contents of the  
25 statement have been disclosed, and the general subject matter of  
26 the statement.

1 (d) Responsiveness. Witnesses will be expected to  
 2 answer all questions directly and without evasion, to the extent  
 3 of their testimonial knowledge, unless directed by counsel not to  
 4 answer.

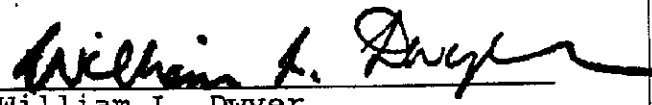
5 (e) Private Consultation. Private conferences between  
 6 deponents and their attorneys during the actual taking of the  
 7 deposition are improper, except for the purpose of determining  
 8 whether a privilege should be asserted. Unless prohibited by the  
 9 court for good cause shown, such conferences may, however, be held  
 10 during normal recesses and adjournments.

11 (f) Conduct of Examining Counsel. Examining counsel  
 12 will refrain from asking questions he or she knows to be beyond  
 13 the legitimate scope of discovery, and from undue repetition.

14 (g) Courtroom Standard. All counsel and parties should  
 15 conduct themselves in depositions with the same courtesy and  
 16 respect for the rules that are required in the courtroom during  
 17 trial.

18 3. RESPONSIBILITY OF PLAINTIFF'S COUNSEL. This order is  
 19 issued at the outset of the case, and a copy is delivered by the  
 20 clerk to counsel for plaintiff. Plaintiff's counsel (or plain-  
 21 tiff, if pro se) is directed to deliver a copy of this order to  
 22 each other party within ten days after receiving notice of that  
 23 party's appearance.

24 Dated: June 24, 1999

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 26 William L. Dwyer  
 United States District Judge